

Exhibit E

DEPOSITION OF OFFICER JASON GILLET

IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE NORTHERN DISTRICT OF CALIFORNIA

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AG.G. a minor, by and through)
his guardian ad litem, JESSICA)
AQUINO; AR.G., a minor, by and)
through his guardian ad litem,)
JESSICA AQUINO; KARLA GONSALEZ)
individually; and AUGUSTIN)
GONSALEZ, JR., individually,)

Plaintiffs,)

vs.)

CASE NO.: 4:19-cv-00697 DMR)

CITY OF HAYWARD, a municipal)
corporation; MARK KOLLER,)
individually; PHILLIP WOOLEY,)
individually; MICHAEL CLARK,)
individually; TASHA DECOSTA,)
individually; and DOES 1-100,)
inclusive,)

Defendants.)

CERTIFIED COPY

DEPOSITION OF OFFICER JASON GILLET

THURSDAY, JANUARY 30, 2020

REPORTED BY: KELLY L. MCKISSACK, CSR #13430

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1 you're approaching -- in the report you say, "As I was
2 approaching O'Neil Avenue from Orchard Avenue officers
3 on scene broadcast via the radio shots fired."

4 How far away do you think you were from their
5 location when you, let me finish, when you heard the
6 report of shots fired?

7 A. I don't know exact distance. I would say if I
8 had to approximate maybe 3- or 400 yards.

9 Q. Okay. So you would have arrived and parked
10 your car very quickly afterwards, correct?

11 A. Yes.

12 Q. And were you responding lights and siren?

13 A. Yes.

14 Q. Okay. One second. And what did you see once
15 you parked your vehicle?

16 A. I saw two patrol cars off to the side of each
17 other. And I got out. I ran towards what I know now
18 Officer Wooley's patrol vehicle and saw him standing in
19 front on the driver side.

20 Q. What was he doing?

21 A. He had his weapon pointed in a downward angle.

22 Q. Okay. Can you describe Officer Wooley's
23 demeanor at that time?

24 A. I wasn't -- no.

25 Q. Was there anything about his demeanor that

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1 jumped out at you or that caught your attention?

2 A. No. I know there had just been a shooting. I
3 didn't know at the time who had shot or anything. So
4 nothing stood out to me.

5 Q. Did Officer Wooley say anything to you?

6 A. No.

7 Q. Did you hear Officer Wooley saying anything?

8 A. No, not that I recall.

9 Q. Okay. And at some point you saw Mr. Gonzalez
10 on the ground, correct?

11 A. Yeah. As I broke the front of the patrol
12 vehicle I saw the subject on the ground. And I believe
13 Officer Clark attempting to detain him at which time I
14 assisted.

15 Q. And at that time was there a -- did you see a
16 weapon anywhere?

17 A. When I -- I believe I grabbed his left arm.
18 We pulled him to detain him; I saw a razor blade on the
19 ground.

20 Q. Was the razor blade -- from watching -- you've
21 watched the video, correct?

22 A. Yes.

23 MR. VIGILIA: Objection. Vague as to the
24 video.

25 MR. NISENBAUM: Sure.

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1 Q. You're aware that there are video camera, body
2 cam videos of the incident, correct?

3 A. Yes.

4 Q. And there are body cam videos of events that
5 occurred after the incident, correct?

6 A. Yes.

7 Q. And based on your watching the video, you're
8 aware that those videos document the recovery of the
9 razor blade, correct?

10 A. Yes.

11 Q. Okay. Including you turning Mr. Gonsalez'
12 body, I guess, rolling it kind of towards you?

13 A. Yes.

14 Q. Then seeing the razor blade, correct?

15 A. Yes.

16 Q. Was it actually under his body before, in
17 other words -- let me finish the question.

18 A. Sorry.

19 Q. It was a bad question. Strike that.

20 Based on recovering -- your recovery of the
21 razor blade, had it be under his body before you
22 recovered it?

23 MR. VIGILIA: Objection. Calls --

24 BY MR. NISENBAUM: Q. Before you rolled him.

25 MR. VIGILIA: Objection. Calls for

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1 speculation. You can answer.

2 THE WITNESS: I don't know because he was
3 already being detained at the time. It was near where
4 he was laying for sure.

5 BY MR. NISENBAUM: Q. And who was that officer, Davis?

6 A. The other officer detaining him?

7 Q. Yeah.

8 A. I thought it was Officer Clark.

9 Q. Clark. Okay. Right. I'm going to show you a
10 picture, several pictures rather. We'll make these the
11 next in order. It's a set of three pictures.

12 (Whereupon, Exhibit B was marked for
13 identification.)

14 BY MR. NISENBAUM: Q. Have you seen these pictures
15 before? Take a look through them.

16 A. I have not.

17 Q. Let me ask you this. Do you recognize what's
18 depicted in the pictures?

19 A. I do, yes.

20 Q. What is depicted?

21 A. A yellow card, which is one of our report
22 receipts we give out after reports. A razor blade and a
23 marking of where the razor blade was.

24 Q. And so the razor blade -- was the razor blade
25 recovered where it's demonstrated next to the orange

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1 his breath, like he was out of breath?

2 A. Yes.

3 Q. Were his eyes open or closed?

4 A. They were open.

5 Q. Were his eyes -- could you tell were his eyes
6 moving or were they fixed?

7 A. I don't recall.

8 Q. How long did you attend to Mr. Gonsalez?

9 A. Roughly five minutes.

10 Q. And did his condition, his medical condition,
11 appear to change while you were attending to him?

12 MR. VIGILIA: Objection. Calls for expert
13 opinion. You can answer if you can.

14 THE WITNESS: It appeared that he was
15 struggling more and more to breathe.

16 BY MR. NISENBAUM: Q. At the conclusion of you
17 attending to him, was he still breathing?

18 A. When the paramedics showed up?

19 Q. Yes.

20 A. I don't believe so. I believe he was still
21 going in and out, but had gone out.

22 Q. And was it about five minutes when the
23 paramedics showed up?

24 A. Yeah. I would say roughly about that.

25 Q. That's about the time that you stopped

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1 wearing.

2 Q. Was it basically a flannel shirt?

3 A. Yes.

4 Q. Now, you went -- you went with the
5 paramedics --

6 A. I did.

7 Q. -- with Mr. Gonzalez -- let me finish the
8 question. It's okay. It will happen again. I'll start
9 the question over.

10 Mr. Gonzalez was transported to the hospital,
11 correct?

12 A. Yes.

13 Q. And you attended Mr. Gonzalez or you were with
14 Mr. Gonzalez while he was in the ambulance being
15 transported to the hospital, correct?

16 A. Yes.

17 Q. At that time -- well, I guess what I'm
18 somewhat curious about, you wrote in your report during
19 transport, this is Bates 19, "Gonzalez was incoherent
20 and was unable to answer any questions." What did you
21 mean by incoherent?

22 A. That he seemed dazed. And when the paramedics
23 were talking to him he wasn't responding to them.

24 Q. Okay. It wasn't like he was babbling?

25 A. No.

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DECLARATION OF WITNESS

I hereby declare I am the deponent in the within matter; that I have read the foregoing deposition and know the contents thereof, and I declare that the same is true of my knowledge except as to the matters which are therein stated upon my information or belief, and as to those matters, I believe them to be true.

I declare under the penalties of perjury of the State of California that the foregoing is true and correct.

Executed this ____ day of _____,
20__, at _____, _____.
(City) (State)

JASON GILLETT

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1 STATE OF CALIFORNIA)
 2) ss.
 3 COUNTY OF ALAMEDA)
 4

5 I hereby certify that the witness, Jason
 6 Gillett, in the foregoing deposition appeared before me,
 7 Kelly McKissack, a Certified Shorthand Reporter and
 8 a disinterested person.

9 Said witness was then and there at the time
 10 and place previously stated by me placed under oath to
 11 tell the truth, the whole truth and nothing but the
 12 truth in the testimony given on the date of the within
 13 deposition; that the deposition is a true record of the
 14 witness' testimony as reported by me.

15 The testimony of the witness and all questions
 16 and remarks requested by Counsel was reported under my
 17 direction and control, caused to be transcribed into
 18 typewritten form by means of Computer-Aided
 19 Transcription.

20 I am a Certified Shorthand Reporter licensed
 21 by the State of California, and I further certify that I
 22 am not interested in the outcome of the said action, nor
 23 connected with, nor related to any of the parties in
 24 said action, nor to their respective counsel. I am not
 25 of counsel or attorney for either or any of the parties
 to the case named in the within caption.

IN WITNESS WHEREOF, I have hereunto affixed my
 signature this 13th day of February, 2020

___/s/Kelly McKissack_____

Kelly McKissack
 Certified Shorthand Reporter
 California License No. 13430

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WITNESS LETTER

TO: Officer Jason Gillett Date: 03.06.20
c/o Michael G. Vigilia, Sr. Asst. City Attorney
CITY OF HAYWARD Depo: 01.30.20
777 B Street Ref. #20013005A
Hayward, CA 94541

RE: AG.G...J.Aquino; K.Gonsalez v. City of Hayward, et al.

Dear Officer Gillett:

Please be advised that the transcript of your deposition taken in the above matter has been completed and is now available at this office for your reading and signing.

Please contact our office between the hours of 9:30 a.m. and 5:00 p.m. Monday-Friday, to schedule an appointment. Or, if you prefer, contact the attorney to review and sign the copy of your deposition under penalty of perjury.

Read the transcript making any changes necessary. In making any changes, please use the following guide:

1. DO NOT WRITE on the original transcript.
2. SIGN UNDER PENALTY OF PERJURY at the end of the Deposition on the Certificate of Witness Page.
3. List each change on the Deposition Errata Sheet following this page. Signature is required at the bottom of the Errata Sheet.
4. Forward the signed Certificate of Witness Page and signed Errata Sheet in addition to a copy of this letter to:

Barbara J. Butler & Associates
Certified Court Reporters
P.O. Box 3508, Santa Clara, CA 95055
(510) 832-8853 or (408) 248-2885.

Upon receipt of items requested in this letter, I will forward copies of same to all Counsel.

In the event you have not reviewed your deposition within 35 days or by trial date, whichever is sooner, the original transcript will be sealed pursuant to applicable laws and thereafter mailed to the deposing attorney.

Sincerely,

/s/Barbara J. Butler
Barbara J. Butler, CSR

cc: All Counsel